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10/802,086

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Garrett Blythe

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EXAMINER

LEUNG, JENNIFER

ART UNIT

PAPER NUMBER

3714

MAIL DATE

DELIVERY MODE

07/20/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/802,086

Applicant(s)

BLYTHE ET AL.

Examiner

Jennifer Leung

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 3/16/2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 August 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 8/6/2004.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. The drawings are objected to because the drawings are shaded. The drawings should be in black and white. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

1. The abstract of the disclosure is objected to because "LSP" should be stated as "layered service provider" before using the acronym. Correction is required. See MPEP § 608.01(b).

Appropriate correction is required.

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2. The disclosure is objected to because of the following informalities:

Page 9, line 9: “=” should be deleted after “may perform”.

Appropriate correction is required.

Claim Objections

1. Claims 3, 4, and 6 are objected to because of the following informalities:

Claim 3, line 2: “an individual” should be -- the individual --.

Claim 4, line 2: “the user terminal” should be -- the terminal --.

Claim 6, line 1: “LSP” should be -- layered service provider --.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. **Claims 1-5 and 7-24 are rejected under 35 U.S.C. 102(b) as being anticipated by**

Kirmse (US 2002/0086732).

Kirmse discloses a client-server system including a plurality of game clients, a game server, a plurality of messenger clients, and a messenger server. The game server includes logic to operate

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a multiplayer game using inputs from and outputs to an active game set of game clients, wherein game clients other than those in the active game set can join an active game by supplying the game server with a reference to the active game. The messenger server includes logic to forward messages from a sender messenger client to a receiving messenger client (para. 0008).

Additionally, logic is included for coupling a game client to a messenger client to allow the game client to send the messenger client data used to initiate joining a game, whereby a message sent by the messenger client includes the data used to initiate joining a game. Also, logic is included for initiating a join of a game at an invitee client, using data received in a message to the invitee. Kirmse additionally discloses:

Re claims 1, 12, and 18. Kirmse discloses a system (10) for facilitating multiplayer gaming over a computer network (16), the system comprising: a client program running on a terminal (12) that automatically detects when selected individuals are playing certain multiplayer games on the computer network (Figs. 1 and 8-10; paras. 0029 and 0053), and notifies a user of the games and the selected individuals playing the games (para. 0053).

Re claims 2, 12, and 19. The system of claim 1, wherein the client program is further adapted to allow the user to join an individual in a game by running an instance of the game on the terminal and connecting the terminal to a location hosting the game (para. 0010; 0054; 0056-57).

Moreover, the claim language “adapted to” is an intended use limitation that does not distinguish the claimed system over the prior art. The claim recitation is not a positive limitation, thus, the client program only requires the ability to perform. Furthermore, while features of an apparatus

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may be recited either structurally or functionally, claims directed to an apparatus must be distinguished from the prior art in terms of structure rather than function alone. (MPEP § 2114).

Re claim 3. The system of claim 2 wherein the client program further generates a user interface that allows the user to join an individual in a game by selecting an icon (friend's identifier or smiley face icon) (Fig. 10; para. 0054; 0077).

Re claims 4, 13, and 20. The system of claim 2 wherein the client program is further adapted to detect running games on the user terminal and to communicate data identifying the running games and the user over the computer network for receipt by selected individuals (Fig. 8-10; para. 0053).

Re claims 5, 13, and 20. The system of claim 4 further comprising: a second program that determines a connection status of the running games and communicates the connection status to the client program (para. 0010, lines 1-11); wherein the client program is further adapted to communicate the connection status of the running games over the computer network for receipt by the selected individuals (para. 0010, lines 11-13).

Re claims 7, 14, and 21. The system of claim 5 wherein the connection status comprises an IP address hosting a corresponding game (para. 0035; 0086).

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Re claim 8. The system of claim 5 further comprising: one or more servers (messenger server) adapted to receive the data and connection status and to communicate the data and connection status to the selected individuals (18, Fig. 1; 118, Fig. 12; para. 0010; 0053).

Re claims 9, 15, and 22. The system of claim 2 wherein the program is further adapted to allow the user to send and receive instant messages to and from selected individuals (para. 0029). Also, see the intended use rationale provided above.

Re claims 10, 16, and 23. The system of claim 9 wherein the selected individuals include individuals stored on a friend list created by the user (para. 0003).

Re claims 11, 17, and 24. The system of claim 10 wherein the selected individuals include individuals stored on a friend list created by an individual stored on a friend list created by the user (para. 0003: since a user has a friend list (as shown in Figs. 8-10), then a friend on the list also has a friend list b/c both the user and the friend have the IM software).

3. Claims 1-5 and 7-24 are rejected under 35 U.S.C. 102(e) as being anticipated by Hansen (US 2004/0224769).

Re claims 1, 12, and 18. Hansen discloses a system for facilitating multiplayer gaming over a computer network (Fig. 4B), the system comprising: a client program running on a terminal that automatically detects when selected individuals are playing certain multiplayer games on the computer network (para. 0060), and notifies a user of the games and the selected individuals playing the games (para. 0060).

Re claims 2, 12, and 19. The system of claim 1, wherein the client program is further adapted to allow the user to join an individual in a game by running an instance of the game on the terminal and connecting the terminal to a location hosting the game (para. 0007; 0061).

Re claim 3. The system of claim 2 wherein the client program further generates a user interface that allows the user to join an individual in a game by selecting an icon (para. 0061).

Re claims 4, 13, and 20. The system of claim 2 wherein the client program is further adapted to detect running games on the user terminal and to communicate data identifying the running games and the user over the computer network for receipt by selected individuals (para. 0060-61).

Re claims 5, 13, and 20. The system of claim 4 further comprising: a second program (322, Fig. 7) that determines a connection status of the running games and communicates the connection status to the client program; wherein the client program (304, 308, 390, 392, 394, Fig. 7) is further adapted to communicate the connection status of the running games over the computer network for receipt by the selected individuals (para. 0007; 0060-61; 0068).

Re claims 7, 14, and 21. The system of claim 5 wherein the connection status comprises an IP address hosting a corresponding game (para. 0007; 0061).

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Re claim 8. The system of claim 5 further comprising: one or more servers (304, Fig. 7) adapted to receive the data and connection status and to communicate the data and connection status to the selected individuals (para. 0060-61; 0068).

Re claims 9, 15, and 22. The system of claim 2 wherein the program is further adapted to allow the user to send and receive instant messages to and from selected individuals (para. 0060).

Re claims 10, 16, and 23. The system of claim 9 wherein the selected individuals include individuals stored on a friend list created by the user (para. 0054).

Re claims 11, 17, and 24. The system of claim 10 wherein the selected individuals include individuals stored on a friend list created by an individual stored on a friend list created by the user (para. 0058).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kirmse in view of Garg (US 2004/0032876).**

Kirmse discloses that as discussed above with regards to claims 1-5 and 7-24.

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Kirmse fails to disclose the system of claim 5 wherein the second program comprises an LSP program.

In an analogous reference, Garg teaches of a network system that uses an LSP to intercept data sent and received by a client device. Garg is silent to a gaming network. However, Garg teaches of an LSP program (para. 0021).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate Garg's LSP program in Kirmse. One would be motivated to do so in order to take advantage of current technology to monitor which game server the user is connecting to so that an IP address can be obtained for other players to connect to the same server to play the same game.

6. Claims 25-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kirmse in view of Murray (US 2002/0094870).

Re claim 25. Kirmse discloses a computerized method for communicating over a computer network, comprising: detecting when first individuals stored on a list associated with a user are present on the computer network (Fig. 8-10; para. 0003; 0053); detecting when second individuals stored on a list associated with one or more of the first individuals are present on the computer network (Fig. 8-10; para. 0003; 0053).

However, Kirmse fails to disclose: notifying the user that the first and second individuals are present on the computer network; and allowing the user to send and receive messages to and from the first and second individuals.

In an analogous reference, Murray teaches a game which displays a list of friends including friends of friends involved in the game (Fig. 14) and also enables the user to communicate with all the friends on the list (para. 0093).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include friends of friends in Kirmse's displayed friend list and allow communication among more friends in order to increase the community of players playing the same game (para. 0093)

Re claim 26. Kirmse discloses instant messages (para. 0029).

7. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hansen in view of Garg (US 2004/0032876).

Hansen discloses that as discussed above with regards to claims 1-5 and 7-24.

Hansen fails to disclose the system of claim 5 wherein the second program comprises an LSP program.

In an analogous reference, Garg teaches of a network system that uses an LSP to intercept data sent and received by a client device. Garg is silent to a gaming network. However, Garg teaches of an LSP program (para. 0021).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate Garg's LSP program in Hansen. One would be motivated to do so in order to take advantage of current technology to monitor which game server the user is connecting to so that an IP address can be obtained for other players to connect to the same server to play the same game.

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8. Claims 25-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hansen in view of Murray (US 2002/0094870).

Re claim 25. Hansen discloses a computerized method for communicating over a computer network, comprising: detecting when first individuals stored on a list associated with a user are present on the computer network (para. 0060); detecting when second individuals stored on a list associated with one or more of the first individuals are present on the computer network (para. 0058; 0060).

However, Hansen fails to disclose: notifying the user that the first and second individuals are present on the computer network; and allowing the user to send and receive messages to and from the first and second individuals.

In an analogous reference, Murray teaches a game which displays a list of friends including friends of friends involved in the game (Fig. 14) and also enables the user to communicate with all the friends on the list (para. 0093).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include friends of friends in Hansen's alert (para. 0060 of Hansen) and allow communication among more friends in order to increase the community of players playing the same game (para. 0093)

Re claim 26. Hansen discloses instant messages (para. 0060).

Conclusion

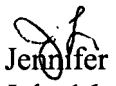
9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Wong '780 discloses a method and system for selectively receiving content over a communications network based on network communications speed.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer Leung whose telephone number is 571-270-1342. The examiner can normally be reached on Mon -Thur, every other Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert E. Pezzuto can be reached on 571-272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Jennifer Leung
July 16, 2007

/Scott Jones/

Primary Examiner, Art Unit 3714


ROBERT E. PEZZUTO
SUPERVISORY PRIMARY EXAMINER